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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,765	01/10/2001	Saul Yedgar	P-2507-US	6480

27130 7590 07/15/2003

EITAN, PEARL, LATZER & COHEN ZEDEK LLP  
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EXAMINER
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O SULLIVAN, PETER G

ART UNIT	PAPER NUMBER
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1621

DATE MAILED: 07/15/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/756,765

Applicant(s)

Yedgar et al.

Examiner

Peter O'Sullivan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 14, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above, claim(s) 1-69, 71-79, and 82-89 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 70, 80, and 81 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☒ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other: \_\_\_\_\_

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1. Claims 1-89 are pending in this application which should be reviewed for errors. In response to the restriction requirement, applicants' elected group X, claims 70-75, with traverse, and further elected the species shown on page 15 of applicants' response filed 14 April 2003. Applicants' compounds which are chondroitin sulfate derivatives with an ethanolamine moiety and wherein the spacer is nothing are examined therewith with other compounds held withdrawn. Accordingly, claims 1-69, 71-79 and 82-89 are held withdrawn.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

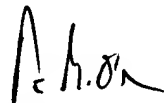
3. Claims 70, 80 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teaching of Yedgar et al. and Chaikof et al. in view of Sorgente et al.. Yedgar et al. disclose anti-inflammatory derivatives including distearoyl phosphatidylethanolamines covalently

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through the amine group to carrier moieties which may include polysaccharides (s. Col. 2, ll. 50-58 and Col. 4, ll. 43-59) The instant invention differs from the teaching of Yedgar et al. in that chondroitin sulfate is not specifically mentioned as a carrier moiety. Yedgar et al., however, clearly do not intend their listing to be exhaustive and chondroitin sulfate is a polysaccharide. Chaikof et al. discloses targeting of therapeutic agents using glycopospholipids generically overlapping applicants' (s. Col. 3, bottom). Chaikof et al. disclose the saccharide derivative used in the glycopospholipid may itself be therapeutic and specifically mentions chondroitin sulfate (s. Col. 5, second and third paragraphs). Although Chaikof et al. does not specifically mention the utility of chondroitin sulfate, Sorgente et al. disclose chondroitin sulfate to be useful as an anti-inflammatory. It would have been prima facie obvious at the time the invention was made to start with the teaching of the cited references, to make applicants' compounds and to expect to produce anti-inflammatory agents.

4. No claim is allowed.

5. Any inquiry concerning this communication should be directed to Peter O'Sullivan at telephone number 703/308-4526.

  
PETER O'SULLIVAN  
PRIMARY EXAMINER  
GROUP 1200